

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

<b>In the Matter of the Accusation</b>	)	
<b>Against:</b>	)	
	)	
	)	
<b>BRENT S. HARLAN, M.D.</b>	)	<b>Case No. 800-2015-016071</b>
	)	
<b>Physician's and Surgeon's</b>	)	
<b>Certificate No. A 108569</b>	)	
	)	
<b>Respondent</b>	)	
_____	)	


**DECISION**

**The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on September 28, 2016**

**IT IS SO ORDERED September 21, 2016**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Kimberly Kirchmeyer**  
**Executive Director**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 JOSHUA M. TEMPLET  
Deputy Attorney General  
4 State Bar No. 267098  
455 Golden Gate Avenue, Suite 11000  
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*Attorneys for Complainant*  
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8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 **BRENT S. HARLAN, M.D.**

12 **503 Hickory Court**  
13 **Wexford, PA 15090**

14 **Physician's and Surgeon's Certificate**  
15 **No. A108569**

16 Respondent.

Case No. 800-2015-016071

OAH No. 2016041195

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Kamala D. Harris, Attorney General of the State of California, via Joshua M.  
24 Templet, Deputy Attorney General.

25 2. Brent S. Harlan, M.D. (Respondent) is represented in this proceeding by attorney Paul  
26 Chan, 2311 Capitol Avenue, Sacramento, CA 95816.

27 3. On or about June 26, 2009, the Board issued Physician's and Surgeon's Certificate  
28 No. A108569 to Respondent. The certificate was in full force and effect at all times relevant to

1 the charges brought in Accusation No. 800-2015-016071 and will expire on October 31, 2016,  
2 unless renewed.

3 JURISDICTION

4 4. Accusation No. 800-2015-016071 was filed before the Board and is currently pending  
5 against Respondent. The Accusation and all other statutorily required documents were properly  
6 served on Respondent on March 23, 2016. Respondent timely filed his Notice of Defense  
7 contesting the Accusation. A copy of Accusation No. 800-2015-016071 is attached as **Exhibit A**  
8 and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges and allegations in Accusation No. 800-2015-016071. Respondent also has carefully read,  
12 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License  
13 and Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
15 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
16 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
18 documents; the right to reconsideration and court review of an adverse decision; and all other  
19 rights accorded by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
21 every right set forth above.

22 CULPABILITY

23 8. Respondent understands that the charges and allegations in Accusation No. 800-2015-  
24 016071, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and  
25 Surgeon's Certificate. For the purpose of resolving the Accusation without the expense and  
26 uncertainty of further proceedings, Respondent agrees that cause exists to discipline his license.

27 ///

28 ///

1 9. Respondent lives and practices in Pennsylvania and has no plans to relocate to or  
2 practice in California. Respondent was not practicing as a physician in California at the time of  
3 the conduct at issue in the Accusation.

4 10. Respondent hereby gives up his right to contest that cause for discipline exists.  
5 Respondent understands that by signing this stipulation he enables the Board to issue an order  
6 accepting the surrender of his Physician's and Surgeon's Certificate without further process.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Board. Respondent understands  
9 and agrees that counsel for Complainant and the staff of the Board may communicate directly  
10 with the Board regarding this stipulation and surrender, without notice to or participation by  
11 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he  
12 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board  
13 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
14 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
15 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
16 be disqualified from further action by having considered this matter.

17 12. The parties understand and agree that Portable Document Format (PDF) and facsimile  
18 copies of this Stipulated Surrender of License and Order, including Portable Document Format  
19 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

20 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
21 the Board may, without further notice or formal proceeding, issue and enter the following Order:

22 ORDER

23 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A108569, issued  
24 to Respondent Brent S. Harlan, M.D., is surrendered and accepted by the Medical Board of  
25 California.

26 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the  
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline  
28

1 against Respondent. This stipulation constitutes a record of the discipline and shall become a part  
2 of Respondent's license history with the Medical Board of California.

3 2. Respondent shall lose all rights and privileges as an Physician and Surgeon in  
4 California as of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of  
8 California, the Board shall treat it as a new application for licensure. Respondent must comply  
9 with all the laws, regulations and procedures for licensure in effect at the time the application or  
10 petition is filed, and all of the charges and allegations contained in Accusation No. 800-2015-  
11 016071 shall be deemed to be true, correct and admitted by Respondent when the Board  
12 determines whether to grant or deny the application or petition.

13  
14 ACCEPTANCE

15 I have carefully read the above Stipulated Surrender of License and Order and have fully  
16 discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have  
17 on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and  
18 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
19 of the Medical Board of California.

20  
21 DATED:

9/12/16



BRENT S. HARLAN, M.D.  
*Respondent*

23 I have read and fully discussed with Respondent Brent S. Harlan, M.D. the terms and  
24 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
25 approve its form and content.

26 DATED:

9/12/16



PAUL CHAN  
*Attorney for Respondent*

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 9/13/2016

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JANE ZACK SIMON  
Supervising Deputy Attorney General

JOSHUA M. TEMPLET  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2015-016071**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 JOSHUA M. TEMPLET  
Deputy Attorney General  
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E-mail: Joshua.Templet@doj.ca.gov  
7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO MARCH 23, 2016  
BY: [Signature] ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2015-016071

12 **Brent S. Harlan, M.D.**  
13 **9077 Orlando Ave.**  
14 **Navarre, FL 32566**

**A C C U S A T I O N**

14 **Physician's and Surgeon's Certificate**  
15 **No. A108569,**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On or about June 26, 2009, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A108569 to Brent S. Harlan, M.D. (Respondent). The certificate was in full  
25 force and effect at all times relevant to the charges brought herein and will expire on October 31,  
26 2016, unless renewed.

27 ///

28 ///



1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following  
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 2004 of the Code provides that the Medical Board shall have the  
5 responsibility for the enforcement of the disciplinary and criminal provisions of the Medical  
6 Practice Act.

7 5. Section 2227 of the Code provides that a licensee who is found guilty under the  
8 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
9 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
10 action taken in relation to discipline as the Board deems proper.

11 6. Section 2234 of the Code, states:

12 The board shall take action against any licensee who is charged with unprofessional  
13 conduct. In addition to other provisions of this article, unprofessional conduct  
14 includes, but is not limited to, the following:

15 (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
16 violation of, or conspiring to violate any provision of this chapter.

17 . . . .

18 7. Section 2236 of the Code states:

19 (a) The conviction of any offense substantially related to the qualifications,  
20 functions, or duties of a physician and surgeon constitutes unprofessional conduct  
21 within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record  
22 of conviction shall be conclusive evidence only of the fact that the conviction  
23 occurred.

24 . . . .

25 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is  
26 deemed to be a conviction within the meaning of this section and Section 2236.1.  
27 The record of conviction shall be conclusive evidence of the fact that the conviction  
28 occurred.

8. Section 2239 of the Code states:

(a) . . . the use of alcoholic beverages, to the extent, or in such a manner as to be  
dangerous or injurious to the licensee, or to any other person or to the public, or to the  
extent that such use impairs the ability of the licensee to practice medicine safely or  
more than one misdemeanor or any felony involving the use, consumption, or self-  
administration of any of the substances referred to in this section, or any combination  
thereof, constitutes unprofessional conduct. The record of the conviction is conclusive

evidence of such unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The [Board] may order discipline of the licensee in accordance with Section 2227 or the [Board] may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

9. Section 2280 states:

No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such an extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor.

10. Section 141 of the Code states:

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

11. Section 2305 of the Code states:

The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

### **FIRST CAUSE FOR DISCIPLINE**

#### **(Unprofessional Conduct: Dangerous Use of Alcohol and DUI Conviction)**

12. Respondent is a Board-certified psychiatrist. After completing his residency in 2009, he worked for the United States Air Force, in Florida, through 2015.

13. On May 6, 2014, Respondent reported for work intoxicated and was removed from patient care.

1           14. On or about May 13, 2014, Respondent was involved in a single vehicle collision in  
2 Santa Rosa County, Florida. Law enforcement officers investigated the incident and arrested  
3 Respondent for driving while under the influence of alcohol.

4           15. On June 23, 2014, an Assistant State Attorney filed a criminal charge against  
5 Respondent in Santa Rosa County Court, Florida, Case Number 14-644CT, for causing property  
6 damage as a result of driving while under the influence of alcohol. On August 15, 2014,  
7 Respondent was convicted of this charge after he pleaded nolo contendere. Respondent was  
8 placed on probation for twelve months with various terms and conditions, including, *inter alia*:  
9 (1) attendance of DUI school; (2) attendance of a substance abuse course; (3) revocation of his  
10 driver's license for six months; (4) prohibition of possessing or consuming alcohol; and (5)  
11 submission to random breath and urine tests.

12           16. As a result of his misconduct, the Air Force removed Respondent from patient care  
13 and suspended his clinical privileges for a period of time, issued him a Letter of Reprimand,  
14 evaluated and diagnosed him with alcohol dependence, and required that he complete inpatient  
15 and outpatient treatment. The Air Force reinstated Respondent's clinical privileges on August 27,  
16 2015.

17           17. Respondent is subject to disciplinary action under section 2234 (unprofessional  
18 conduct), section 2236 (criminal conviction), section 2239 (dangerous use of alcohol), and section  
19 2280 (practice of medicine while under the influence of alcohol) based on the following  
20 circumstances.

21           18. Respondent reported to work and practiced medicine while intoxicated on May 6,  
22 2014 in a manner dangerous to others, in violation of Code section 2239 (dangerous use of  
23 alcohol) section 2234 (unprofessional conduct), and section 2280 (unprofessional conduct).

24           19. Respondent drove his vehicle while under the influence of an excessive amount of  
25 alcohol in a manner dangerous to himself and others, in violation of Code section 2239  
26 (dangerous use of alcohol) and section 2234 (unprofessional conduct).

27           20. Respondent's August 15, 2014 criminal conviction for driving while intoxicated is  
28 substantially related to the qualifications, functions and duties of a physician and surgeon. As

1 such, his conviction constitutes a violation of Code section 2236 (criminal conviction) and section  
2 2234 (unprofessional conduct).

3 21. As a result of his conviction for an offense substantially related to the qualifications,  
4 functions, or duties of a physician and surgeon, Respondent is subject to discipline under Code  
5 sections 2234(a) (unprofessional conduct) and 2236 (criminal conviction).

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Discipline, Restriction or Limitation Imposed by another State)**

8 22. Respondent's conduct and the action of the Air Force as set forth above constitute  
9 unprofessional conduct within the meaning of section 2305 and conduct subject to discipline  
10 within the meaning of section 141(a).

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Medical Board of California issue a decision:

- 14 1. Revoking or suspending Physician's and Surgeon's Certificate Number A108569,  
15 issued to Brent S. Harlan, M.D.;
- 16 2. Revoking, suspending or denying approval of Brent S. Harlan, M.D.'s authority to  
17 supervise physician assistants, pursuant to section 3527 of the Code;
- 18 3. Ordering Brent S. Harlan, M.D., if placed on probation, to pay the Board the costs of  
19 probation monitoring; and
- 20 4. Taking such other and further action as deemed necessary and proper.

21  
22 DATED: March 23, 2016

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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